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7 UNITED STATES DISTRICT COURT  
8 DISTRICT OF NEVADA

9 ON DEMAND DIRECT RESPONSE, LLC, et al.,  
10 Plaintiff(s),  
11 v.  
12 SHANA LEE MCCART-POLLAK,  
13 Defendant(s).  
14

Case No. 2:15-cv-01576-MMD-NJK  
NOTICE

15 An attorney who is “subjected to professional disciplinary action” is required to “immediately  
16 inform the clerk in writing of the action.” Local Rule IA 11-7(c). “Failure to make this report is grounds  
17 for discipline under these rules.” *Id.* Once the notice is received, the matter is referred to the Court for  
18 appropriate action, including reciprocal discipline. Local Rule IA 11-7(e).

19 Through a Court filing on January 3, 2018, attorney Jeffrey Miller indicated that he is “no longer  
20 an active attorney admitted to practice before all the Courts in the State of California, as of December  
21 7, 2017.” Docket No. 300 at 4. What Mr. Miller’s declaration omits is that this inability to practice law  
22 is the result of his default in disciplinary proceedings in California accusing him of a major  
23 misappropriation of client funds. *In the Matter of Jeffrey Anthony Miller, Member No. 144120*, Case  
24 No. 16-O-16334-DFM.<sup>1</sup> That order of default further indicates that, absent an order setting aside the  
25

26 <sup>1</sup> The Court takes judicial notice of the California Bar records reflecting the disciplinary proceedings  
27 against Mr. Miller. *See White v. Martel*, 601 F.3d 882, 885 (9th Cir. 2010) (holding that judicial notice is  
28 proper for such records). Attached hereto is the order of entry of default, initiating notice of disciplinary  
charges, and Mr. Miller’s response thereto.

1 default, Mr. Miller's disbarment will be recommended without further hearing or proceeding. Neither  
2 Mr. Miller nor co-counsel Tony Abbatangelo notified this Court of this disciplinary action.


3 Accordingly, the undersigned hereby provides notice of the above to the District Court Executive  
4 for Nevada, Chief United States District Judge Gloria M. Navarro, and assigned United States District  
5 Judge Miranda M. Du. The Clerk's Office is further **INSTRUCTED** that, in light of other proceedings  
6 before the Court, Mr. Miller shall remain on the CM/ECF distribution list for this case.

7 IT IS SO ORDERED.

8 DATED: February 23, 2018

9   
10 NANCY J. KOPPE  
United States Magistrate Judge

11 cc: Debra Kempf  
12 Chief Judge Navarro  
13 Judge Du  
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<b>STATE BAR COURT OF CALIFORNIA</b>  <b>HEARING DEPARTMENT</b>  <b>845 S. Figueroa Street, Los Angeles, CA 90017</b>	<b>FOR CLERK'S USE ONLY:</b>  <div style="text-align: center;"> <b>FILED</b>    <b>DEC - 5 2017</b>          STATE BAR COURT          CLERK'S OFFICE          LOS ANGELES       </div>
In the Matter of:  <b>JEFFREY ANTHONY MILLER,</b>  <b>Member No. 144120,</b>  A Member of the State Bar.	<b>Case No(s). 16-O-16334-DFM</b>  <b>ORDER ENTERING DEFAULT AND ORDER ENROLLING INACTIVE (RULE 5.81 – FAILURE TO APPEAR)</b>

**ORDER ENTERING DEFAULT:**

As respondent **JEFFREY ANTHONY MILLER** (Respondent) failed to appear as a party at trial and the requirements of rule 5.81(A) of the Rules of Procedure of the State Bar are satisfied, Respondent's default is entered in this proceeding, effective upon the filing of this order. All previously scheduled court dates are vacated. The court takes judicial notice of Respondent's official membership records.

Respondent is notified that:

Because you failed to appear at trial, the court has entered your default and deemed the facts alleged in the notice of disciplinary charges admitted. Except as ordered by the court, you may participate in these proceedings only if the court sets aside your default. If you fail to timely move to set aside your default, this court will enter an order recommending your disbarment without further hearing or proceeding. (See Rules Proc. of State Bar, rule 5.80 et seq.)

**ORDER ENROLLING INACTIVE:**

As the conditions of Business and Professions Code section 6007, subdivision (e)(1), are met, Respondent is enrolled as an inactive member of the State Bar of California under Business and Professions Code section 6007, subdivision (e). The inactive enrollment is effective immediately after a copy of this order is sent electronically to Respondent's official e-mail address. (Rules Proc. of State Bar, rule 5.250.)

**IT IS SO ORDERED.**

Dated: December 5, 2017



**DONALD F. MILES**  
Judge of the State Bar Court

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## CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on December 5, 2017, I deposited a true copy of the following document(s):

ORDER ENTERING DEFAULT AND ORDER ENROLLING INACTIVE (RULE 5.81  
- FAILURE TO APPEAR)

in a sealed envelope for collection and mailing on that date as follows:

- ☒ by certified mail, No. 7196 9008 9111 1007 2781, with return receipt requested, through the United States Postal Service at Los Angeles, California, addressed as follows:

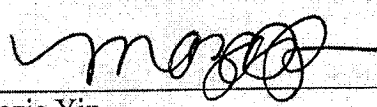
JEFFREY A. MILLER  
LAW FIRM OF JEFFREY MILLER  
1304 E DEXTER ST  
COVINA, CA 91724 - 3226

- ☒ by e-mail to: jeffrey@JAMLAWOFFICES.COM and Kim.Kasreliovich@calbar.ca.gov

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

KIMBERLY G. KASRELIOVICH, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 5, 2017.

  
\_\_\_\_\_  
Mazie Yip  
Case Administrator  
State Bar Court

1 STATE BAR OF CALIFORNIA  
2 OFFICE OF CHIEF TRIAL COUNSEL  
3 GREGORY DRESSER, No. 136532  
4 INTERIM CHIEF TRIAL COUNSEL  
5 DONNA S. HERSHKOWITZ, No. 172480  
6 DEPUTY CHIEF TRIAL COUNSEL  
7 RENE L. LUCARIC, No. 180005  
8 ASSISTANT CHIEF TRIAL COUNSEL  
9 R. KEVIN BUCHER, No. 132003  
10 ACTING SUPERVISING ATTORNEY  
11 KIM KASRELIOVICH, No. 261766  
12 SENIOR TRIAL COUNSEL  
13 845 South Figueroa Street  
14 Los Angeles, California 90017-2515  
15 Telephone: (213) 765-1378

FILED

JUN 30 2017

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

## PUBLIC MATTER

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of:

JEFFREY ANTHONY MILLER,  
No. 144120,

A Member of the State Bar.

Case No. 16-O-16334, 16-O-16438,  
16-O-16896

NOTICE OF DISCIPLINARY CHARGES

### NOTICE - FAILURE TO RESPOND!

IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE  
WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT  
THE STATE BAR COURT TRIAL:

- (1) YOUR DEFAULT WILL BE ENTERED;
- (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU  
WILL NOT BE PERMITTED TO PRACTICE LAW;
- (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN  
THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION  
AND THE DEFAULT IS SET ASIDE, AND;
- (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.  
SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE  
OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN  
ORDER RECOMMENDING YOUR DISBARMENT WITHOUT  
FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,  
RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. JEFFREY ANTHONY MILLER ("Respondent") was admitted to the practice of law  
4 in the State of California on December 11, 1989, was a member at all times pertinent to these  
5 charges, and is currently a member of the State Bar of California.

6 COUNT ONE

7 Case No.16-O-16438  
8 Business and Professions Code, section 6106  
[Moral Turpitude - Misappropriation]

9 2. Between on or about August 12, 2016, and on or about September 9, 2016,  
10 Respondent received on behalf of Respondent's investors, Peggy Donely and Reza Golshani,  
11 \$67,800 to hold in trust and use as proof of funds in a diamond purchasing transaction. Between  
12 on or about August 12, 2016, and on or about September 9, 2016, Respondent deposited the  
13 \$67,800 into Respondent's general account at Bank of America, account number xxxxxxxx5004  
14 on behalf of the investors. Between on or about August 31, 2015, and September 15, 2015,  
15 Respondent's general account balance fell as low as -\$312.92. Respondent dishonestly or grossly  
16 negligently misappropriated for Respondent's own purposes all \$67,800 that Respondent was  
17 required to hold in trust for his investors, and thereby committed an act involving moral  
18 turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section  
19 6106.

20 COUNT TWO

21 Case No.16-O-16438  
22 Rules of Professional Conduct, rule 4-100(A)  
[Failure to Maintain Client Funds in Trust Account]

23 3. Between on or about August 12, 2016, and on or about September 9, 2016,  
24 Respondent received on behalf of Respondent's investors, Peggy Donely and Reza Golshani,  
25 \$67,800 to hold in trust and use as proof of funds in a diamond purchasing transaction. Between  
26 on or about August 12, 2016, and on or about September 9, 2016, Respondent deposited the  
27 \$67,800 into Respondent's general account at Bank of America, account number xxxxxxxx5004  
28 on behalf of the investors. Of this sum, Respondent was required to maintain all \$67,800 in trust.

1 Respondent never deposited the funds in trust and between on or about August 31, 2015, and  
2 September 15, 2015, Respondent's general account balance fell as low as -\$312.92. Respondent  
3 failed to maintain a balance of \$67,800 on behalf of the investors, in Respondent's client trust  
4 account, in willful violation of Rules of Professional Conduct, rule 4-100(A).

5 COUNT THREE

6 Case No. 16-O-16438  
7 Business and Professions Code, section 6068(a)  
[Failure to Uphold Laws – Breach of Fiduciary Duty]

8 4. Between on or about August 12, 2016, and on or about September 9, 2016,  
9 Respondent received on behalf of Respondent's investors, Peggy Donely and Reza Golshani,  
10 \$67,800 to hold in trust and use as proof of funds in a diamond purchasing transaction. Between  
11 on or about August 12, 2016, and on or about September 9, 2016, Respondent deposited the  
12 \$67,800 into Respondent's general account at Bank of America, account number xxxxxxxx5004  
13 on behalf of the investors. Of this sum, Respondent and the investors agreed Respondent would  
14 lodge the funds in his law firm's client trust account and the proceeds would not be spent,  
15 released, or liened against and would only be used as a proof of funds to allow Respondent to  
16 induce a seller in a diamond transaction. Contrary to the terms of the agreement, Respondent  
17 never deposited the funds in trust and between on or about August 31, 2015, and September 15,  
18 2015, Respondent's general account balance fell as low as -\$312.92. By failing to place the funds  
19 in trust and thereafter misappropriating the funds from his general account, Respondent violated  
20 his fiduciary duties as stated under *Worth v. State Bar* (1976) 17 Cal.3d 337, 341, and  
21 Respondent thereby breached his duty to uphold laws in willful violation of Business and  
22 Professions Code, section 6068(a).

23 COUNT FOUR

24 Case No. 16-O-16438  
25 Business and Professions Code, section 6068(i)  
[Failure to Cooperate in State Bar Investigation]

26 5. Respondent failed to cooperate and participate in a disciplinary investigation pending  
27 against Respondent by failing to provide a substantive response to the State Bar's letters of  
28 October 11, 2016 and November 17, 2016, which Respondent received, that requested

Respondent's response to the allegations of misconduct being investigated in case no. 16-O-16438, in willful violation of Business and Professions Code, section 6068(i).

COUNT FIVE

Case No.16-O-16334  
Business and Professions Code, section 6106  
[Moral Turpitude – Misappropriation]

6. On or about September 1, 2015, Respondent received on behalf of Respondent's investor, Tanner Gish, \$25,000 to hold in trust and use as proof of funds in a diamond purchasing transaction. On or about September 1, 2015, Respondent deposited the \$25,000 into Respondent's client trust account at Bank of America, account number xxxxxxxx2699 on behalf of the investor. By on or about September 14, 2015, the balance in Respondent's trust account had fallen to approximately \$2.35. Respondent dishonestly or grossly negligently misappropriated for Respondent's own purposes approximately \$24,977.65 that Respondent was required to hold in trust for his investor, and thereby committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

COUNT SIX

Case No.16-O-16334  
Rules of Professional Conduct, rule 4-100(A)  
[Failure to Maintain Client Funds in Trust Account]

7. On or about September 1, 2015, Respondent received on behalf of Respondent's investor, Tanner Gish, \$25,000 to hold in trust and use as proof of funds in a diamond purchasing transaction. On or about September 1, 2015, Respondent deposited the \$25,000 into Respondent's client trust account at Bank of America, account number xxxxxxxx2699 on behalf of the investor. Of this sum, Respondent was required to maintain all \$25,000 in trust. By on or about September 14, 2015, the balance in Respondent's trust account had fallen to approximately \$2.35. Respondent failed to maintain a balance of \$25,000 on behalf of the investors, in Respondent's client trust account, in willful violation of Rules of Professional Conduct, rule 4-100(A).

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1 COUNT NINE

2 Case No. 16-O-16896  
3 Business and Professions Code, section 6106  
4 [Moral Turpitude - Misappropriation]

5 10. Between on or about December 16, 2015 and on or about January 19, 2016,  
6 Respondent received on behalf of Respondent's clients, Laura Hernandez, Salvador Hernandez,  
7 Ricardo Hernandez, Maurilia Renteria, Francisco Hernandez, Narcisco Hernandez, Arturo  
8 Hernandez, Maria Hernandez, and Maria Bueno, proceeds from the sale of a property to which  
9 the clients were heirs, totaling approximately \$140,896.26. Between on or about December 16,  
10 2015 and on or about January 19, 2016, Respondent deposited the \$140, 896.26 into  
11 Respondent's client trust account at Bank of America, account number xxxxxxxx2699 on behalf  
12 of the clients. Between on or about December 17, 2015 and on or about January 25, 2016,  
13 Respondent's trust account balance fell as low as \$1.42. Respondent dishonestly or grossly  
14 negligently misappropriated for Respondent's own purposes \$140,894.84 that Respondent's  
15 clients, were entitled to receive, and thereby committed an act involving moral turpitude,  
dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

16 COUNT TEN

17 Case No. 16-O-16896  
18 Rules of Professional Conduct, rule 4-100(A)  
19 [Failure to Maintain Client Funds in Trust Account]

20 11. Between on or about December 16, 2015 and on or about January 19, 2016,  
21 Respondent received on behalf of Respondent's clients, Laura Hernandez, Salvador Hernandez,  
22 Ricardo Hernandez, Maurilia Renteria, Francisco Hernandez, Narcisco Hernandez, Arturo  
23 Hernandez, Maria Hernandez, and Maria Bueno, proceeds from the sale of a property to which  
24 the clients were heirs, totaling approximately \$140,896.26. Between on or about December 16,  
25 2015 and on or about January 19, 2016, Respondent deposited the \$140, 896.26 into  
26 Respondent's client trust account at Bank of America, account number xxxxxxxx2699 on behalf  
27 of the clients. Of this sum, the clients and their lienholders were entitled to approximately  
28 \$140,896.26. Between on or about December 17, 2015 and on or about January 25, 2016,  
Respondent's trust account balance fell as low as \$1.42. Respondent failed to maintain a balance

1 of \$140,896.26 on behalf of the client in Respondent's client trust account, in willful violation of  
2 Rules of Professional Conduct, rule 4-100(A).

3 COUNT ELEVEN

4 Case No. 15-O-13859  
5 Business and Professions Code, section 6068(a)  
[Failure to Uphold Laws – Failure to Pay Medical Liens]

6 12. Between on or about December 16, 2015 and on or about January 19, 2016,  
7 Respondent received on behalf of Respondent's clients, Laura Hernandez, Salvador Hernandez,  
8 Ricardo Hernandez, Maurilia Renteria, Francisco Hernandez, Narcisco Hernandez, Arturo  
9 Hernandez, Maria Hernandez, and Maria Bueno, proceeds from the sale of a property to which  
10 the clients were heirs, totaling approximately \$140,896.26. Between on or about December 16,  
11 2015 and on or about January 19, 2016, Respondent deposited the \$140,896.26 into  
12 Respondent's client trust account at Bank of America, account number xxxxxxxx2699 on behalf  
13 of the clients. Of this sum, the client's lienholders, namely California Department of Health  
14 Care Services was entitled to \$35,559.86 pursuant to liens held against Respondent's clients'  
15 recovery. Respondent waited seven months to pay the California Department of Health Care  
16 Services which caused interest to accrue and, in fact, prior to paying the lien, Respondent's  
17 client trust account fell below the \$35,559.86 that he was required to hold in trust. By failing to  
18 timely pay the third-party lienholder, Respondent violated his fiduciary duties as stated under  
19 *Johnstone v. State Bar* (1966) 64 Cal.2d 153, 155-56, and Respondent thereby breached his duty  
20 to uphold laws in willful violation of Business and Professions Code, section 6068(a).

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1 COUNT TWLEVE

2 Case No. 16-O-16896  
3 Business and Professions Code, section 6106  
4 [Moral Turpitude – Issuance of NSF Checks]

5 13. On or about August 26, 2016, Respondent issued the following checks drawn upon  
6 Respondent's client trust account at Bank of America, account no. xxxxxxxx2699 when  
7 Respondent knew or was grossly negligent in not knowing that there was insufficient funds in  
8 the CTA to pay them, and thereby committed an act involving moral turpitude, dishonesty or  
9 corruption in willful violation of Business and Professions Code, section 6106:

10	Check no. 13780	Arturo Hernandez	\$9,190.14	Returned Unpaid
11	Check no. 13781	Narcisco Hernandez	\$9,190.14	Returned Unpaid
12	Check no. 13785	Laura Hernandez	\$9,190.14	Returned Unpaid
13	Check no. 13786	Francisco Hernandez	\$9,190.14	Returned Unpaid
14	Check no. 13787	Ricardo Hernandez	\$9,190.14	Returned Unpaid
15	Check no. 13788	Maria Hernandez	\$9,190.14	Returned Unpaid
16	Check no. 13789	Maria Bueno	\$9,190.14	Returned Unpaid
17	Check no. 13790	Maurilia Renteria	\$9,190.14	Returned Unpaid
18	Check no. 13791	Salvador Hernandez	\$9,190.14	Returned Unpaid

19 COUNT THIRTEEN

20 Case No. 16-O-16896  
21 Business and Professions Code, section 6068(i)  
22 [Failure to Cooperate in State Bar Investigation]

23 14. Respondent failed to cooperate and participate in a disciplinary investigation pending  
24 against Respondent by failing to provide a substantive response to the State Bar's letters of  
25 October 27, 2016 and November 17, 2016, which Respondent received, that requested  
26 Respondent's response to the allegations of misconduct being investigated in case no. 16-O-  
27 16896, in willful violation of Business and Professions Code, section 6068(i).

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## DECLARATION OF SERVICE

by

U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): 16-O-16334, 16-O-16438 & 16-O-16896

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 845 South Figueroa Street, Los Angeles, California 90017, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

### NOTICE OF DISCIPLINARY CHARGES

- ☐ By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))  
- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles.
- ☐ By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))  
- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ('UPS').
- ☐ By Fax Transmission: (CCP §§ 1013(e) and 1013(f))  
Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.
- ☐ By Electronic Service: (CCP § 1010.6)  
Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐ (for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at Los Angeles, addressed to: (see below)

☒ (for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,  
Article No.: 7196 9008 9111 1007 1784 at Los Angeles, addressed to: (see below)

☐ (for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS,  
Tracking No.: addressed to: (see below)

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to:
Jeffrey Anthony Miller	Miller & Associates 1304 East Dexter St. Covina, CA 91724	Electronic Address	

☐ via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A

I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ('UPS'). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: June 30, 2017

SIGNED:

Kimberly Bardales  
Kimberly Bardales  
Declarant

**ORIGINAL**

Jeffrey A. Miller (State Bar No. 144120)  
LAW OFFICES OF JEFFREY A. MILLER & ASSOCIATES  
1304 East Dexter Street  
Covina, CA 91724  
Telephone: (213) 926-5885  
Facsimile: (626) 657-2690

Attorneys for Respondent  
Jeffrey A. Miller

**FILED**

AUG 11 2017

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

**STATE BAR COURT OF CALIFORNIA**  
**HEARING DEPARTMENT-LOS ANGELES**

In the Matter of:

CASE NO. 16-O-16334-DFM

JEFFREY A. MILLER,

Member No.: 144120

**RESPONSE OF RESPONDENT JEFFREY  
A. MILLER**

Respondent, JEFFREY A. MILLER, an individual, hereby responds to the NOTICE OF  
DISCIPLINARY CHARGES, as follows.

**RESPONSE**

1. This is a case of not everything is as it appears at first glance. The complaining parties were not clients of Respondent. Respondent did not take anyone's money without permission, as they were willing investors. And contrary to the State Bar's charges, not only has Respondent returned money to its investors, Respondent is prepared to return the original investment and even more profits to the investors resulting in the complaining parties receiving far in excess of the money invested by them, by more than one hundred percent. In short, this is a matter where non-client investors used the State Bar complaint process to try and leverage Respondent to pay more money and/or faster than he was able

1 to with regard to their investments.

- 2 2. Respondent admits the allegations contained in Paragraph One of the Notice of  
3 Disciplinary charges ("NDC"), in that Respondent was at all times herein, a member of  
4 the State Bar of California. However, Respondent respectfully objects to the subject  
5 matter jurisdiction of the State Bar and this Court on the grounds that none of these  
6 complaining parties were EVER clients at any time during the events addressed in the  
7 NDC, and were investors only.
- 8 3. Respondent denies Count One contained in Paragraph Two of the NDC and pleads as  
9 follows: Respondent received \$67,800.00 in August 2015 (and not 2016 as alleged), that  
10 was intentionally deposited into an account, other than Respondent's IOLTA, because it  
11 was an investment. The investment money was received from Ms. Peggy Donley and  
12 Reza Golshani, who are married to each other ("Donley & Golshani"), and whom  
13 Respondent has known for twenty plus years. This money was an investment made  
14 pursuant to a written agreement. The money was deposited by Donley and Golshani  
15 themselves directly into the non-IOLTA account, knowingly and purposely. Donley and  
16 Golshani were not clients of Respondent at any of the times related to this matter.  
17 Respondent generated \$56,200.00 in profit for Donley and Golshani by the end of October  
18 2015 (only 2.5 months later) and at the direction of Donley and Golshani, Respondent  
19 distributed to Donley and Golshani \$24,000.00 of the profits and reinvested \$32,200.00 of  
20 the profits, along with their original \$67,800.00 into another investment with Respondent.  
21 It was only many months later, well after receiving the profit distribution of \$24,000.00  
22 from Respondent and reinvesting \$32,200.00 of profits, when they did not receive  
23 additional profits in a timeframe that they considered satisfactory to them, that Donley and  
24 Golshani filed their complaint against Respondent with the State Bar, and they did so only  
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26  
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1 to create leverage against Respondent, to attempt to force him to pay more money in a  
2 faster timeframe than he was able to do. As of this filing, Respondent is prepared to  
3 provide to Donley and Golshani their original investment of \$67,800.00, their additional  
4 investment of \$32,200.00 (which Respondent created for them in the way of profits) and  
5 additional profits of \$10,000.00, to go along with the \$24,000.00 in profits already  
6 distributed to them for a total of \$67,800.00 in original money and \$66,200.00 in profits  
7 total. The amount of the account balance in Respondent's IOLTA or any other account,  
8 after the deposit of the money, is irrelevant, as the money was not intended to be  
9 deposited to Respondent's IOLTA, was not intended to be held in trust and Donley and  
10 Golshani agreed to its release for the purposes of its investment by Respondent.  
11

- 12 4. Respondent denies Count Two contained in Paragraph Three of the NDC and pleads as  
13 follows: Respondent did not commit any act of moral turpitude, as this money was not  
14 received on behalf of a client of Respondent and was not intended to be held in trust in  
15 any fashion. Therefore, the amount in the IOLTA account is irrelevant as the money was  
16 not intended to be held in trust. As an investment between Donley & Golshani and  
17 Respondent, in his individual capacity, and not in Respondent's capacity as a lawyer, the  
18 State Bar should not exercise its subject matter jurisdiction over this dispute, as  
19 Respondent was not acting as a lawyer in the investment transaction.  
20
- 21 5. Respondent denies Count Three contained in Paragraph Four of the NDC on the grounds  
22 contained in Paragraphs 3-4 herein, which serve as a complete response to Count Three  
23 contained in Paragraph 4 of the NDC.  
24
- 25 6. Respondent denies Count Four contained in Paragraph Five of the NDC and pleads as  
26 follows: Respondent did respond to the letters from the State Bar and had not one but  
27 three discussions with the State Bar Investigator, Mr. Benson Hom, wherein Respondent  
28

1 expressed plainly that Donley and Golshani made an investment with Respondent in his  
2 individual capacity and not in his capacity as an attorney for or on behalf of Donley and  
3 Golshani, and as such the State Bar does not have any jurisdiction over the matter than if  
4 it involved a party that was not a licensed attorney. The State Bar may disagree with  
5 Respondent's position but that does not mean that Respondent failed to respond to the  
6 allegations. Respondent reserves his rights to challenge the subject matter jurisdiction of  
7 the State Bar over this dispute, as Donley and Golshani were not clients of Respondent, at  
8 any of the times related to this matter.  
9

- 10 7. Respondent denies Count Five contained in Paragraph Six of the NDC and pleads as  
11 follows: Mr. Tanner Gish ("Gish") provided money to Respondent as an investment made  
12 pursuant to written agreement. Gish was not a client of Respondent at any time with  
13 regard to this matter or otherwise. Respondent generated and disbursed \$6,016.00 in  
14 profits in 2015 for Gish, prior to his complaint to the State Bar, subsequent to his  
15 complaint to the State Bar. As of the time of this Response, Respondent is prepared to  
16 deliver the entirety of Gish's invested principal of \$25,000.00 and an additional  
17 \$20,000.00 in profits, to go with the \$6,016.00 received in profits from the investment  
18 with Respondent, as of the filing of this Response for a total of \$25,000.00 in principal  
19 and \$26,016.00 in profits. The amount of the account balance in Respondent's IOLTA, is  
20 irrelevant, as Gish was not a client and was an investor, the money was not to be held in  
21 trust and Gish agreed to its release for the purposes of the Investment.  
22  
23 8. Respondent denies Count Six contained in Paragraph Seven of the NDC on the grounds  
24 contained in Paragraphs 6 and 7 herein, which serves as a complete response to Count Six  
25 contained in Paragraph 7 of the NDC.  
26  
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1 9. Respondent denies Count Seven contained in Paragraph Eight of the NDC on the grounds  
2 contained in Paragraphs 6 and 7 herein, which serves as a complete response to Count  
3 Seven contained in Paragraph 8 of the NDC.  
4

5 10. Respondent denies Count Eight contained in Paragraph Nine of the NDC and pleads as  
6 follows: Respondent did respond to the letters from the State Bar and had not one but  
7 three discussions with the State Bar Investigator, Benson Hom, wherein Respondent  
8 expressed plainly that Gish made an investment with Respondent in his individual  
9 capacity and not in his capacity as an attorney for or on behalf of Gish, and as such the  
10 State Bar does not have any jurisdiction over the matter than if it involved a party that was  
11 not a licensed attorney. The State Bar may disagree with Respondent's position but that  
12 does not mean that Respondent failed to respond to the allegations. Respondent reserves  
13 his rights to challenge the subject matter jurisdiction of the State Bar over this dispute, as  
14 Gish was not a client of Respondent, at any of the times related to this matter, or any other  
15 time.  
16

17 11. Respondent denies Count Nine contained in Paragraph Ten of the NDC and pleads as  
18 follows: Respondent received \$140,896.26 (the "Surplus Proceeds") from the sale of a  
19 property in which the persons named in Count Nine were the heirs (collectively the  
20 "Hernandez Heirs"). The Hernandez Heirs were not clients of Respondent at any of the  
21 times related to this matter, or at any other time. Respondent's client was in fact the real  
22 estate and lending firm that brought this file to Respondent, and paid Respondent's fees,  
23 in return for their share of the Surplus Proceeds. Once the Surplus Proceeds were  
24 received by Respondent, he contacted the Hernandez Heirs and inquired of their desire to  
25 invest their Surplus Proceeds to which they agreed. The money was moved out of  
26 Respondent's IOLTA and placed into the investment. Sometime well after the investment  
27  
28

1 had begun, the California Department of Health Care Services ("CDHCS") notified the  
2 Hernandez Heirs and Respondent that it expected to be paid \$35,559.86 of the Surplus  
3 Proceeds, because the CDHCS had allegedly paid this amount of money on behalf of the  
4 deceased former owner of the real property that was the basis of the Surplus Proceeds.  
5 Respondent not only paid the CDHCS the entirety of what was owed from the investment  
6 money, Respondent paid the interest as well from the investment money and offered to  
7 deduct same from his share of the investment and not from the Hernandez Heirs' shares.  
8 Further, Respondent has paid all third-party lien-holders and other parties entitled to the  
9 Surplus Proceeds. Finally, as of the date of this Response, Respondent is prepared to give  
10 the Hernandez Heirs' the entirety of their principal investment of \$82,711.26 and  
11 \$87,000.00 in profits that have not been distributed.

12  
13  
14 12. Respondent denies Count Ten contained in Paragraph Eleven of the NDC on the grounds  
15 contained in Paragraph 12 herein, which serves as a complete response to Count Ten  
16 contained in Paragraph 11 of the NDC.

17 13. Respondent denies Count Eleven contained in Paragraph Twelve of the NDC on the  
18 grounds contained in Paragraph 12 herein, which serves as a complete response to Count  
19 Eleven contained in Paragraph 12 of the NDC.

20  
21 14. Respondent denies Count Twelve contained in Paragraph Thirteen of the NDC on the  
22 grounds contained in Paragraph 12 herein, and further pleads as follows: no checks  
23 written were written against Respondent's IOLTA account, because the Hernandez Heirs  
24 were investors, and as such their money was not to be held, nor to be paid out of  
25 Respondent's IOLTA. Further, with regard to the checks that were written from an  
26 account other than Respondent's IOLTA, none of the checks were "returned for  
27 insufficient funds." The checks were not paid and/or would not have been paid if  
28

1 presented, because Bank of America placed a hold on the account known as an "888"  
2 hold, which effectively froze the account and prevented any transaction from clearing, so  
3 that if someone were to present a check, they would be told it would not be honored or  
4 would be treated as "NSF" no matter what. This hold was placed to protect the account  
5 from theft as checks were stolen from Respondent's bag. As far as Respondent is aware,  
6 only one check was ever presented to Bank of America, as Respondent notified the  
7 Hernandez Heirs of the 888 hold, as soon as he was aware of it.  
8

9 15. Respondent denies Count Thirteen contained in Paragraph Fourteen of the NDC  
10 and pleads as follows: Respondent did respond to the letters from the State Bar and  
11 discussed the matter with the State Bar Investigator, Benson Hom, wherein Respondent  
12 expressed that Respondent's non-IOLTA account was under an 888 hold, and therefore no  
13 checks could present against the account.  
14

15 16. Respondent seeks a full hearing on the charges filed against him and requests the Court to  
16 set the matter for discovery and hearing.  
17

18 Dated: July 25, 2017  
19

Respectfully submitted,

20 LAW OFFICES OF JEFFREY A. MILLER &  
21 ASSOCIATES

22 By: \_\_\_\_\_

23 Jeffrey A. Miller  
24 Attorneys for Respondent  
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